



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 1  
5 Post Office Square – Suite 100  
BOSTON, MA 02109-3912

**URGENT LEGAL MATTER – PROMPT ATTENTION REQUIRED**  
**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

August 20, 2012

Mr. Douglas Nelson, Sr.  
Nelson Farms, Inc.  
P.O. Box 1437  
Derby Line, VT 05830

**Re: Request for Information Pursuant to Section 308 of the Clean Water Act**

Dear Mr. Nelson:

This letter concerns the work performed on your property off of Coventry Station Road, Coventry, Vermont, also referred to as Farm #161, Tract 493 (the "Site"). See **Attachment A**. Based on initial information from the U.S. Army Corps of Engineers (the "Corps") and the U.S. Natural Resource Conservation Service ("NRCS"), in addition to information gathered at the May 24, 2012, site inspection at which you were present, it appears that a significant area of forested wetlands has been clear cut, grubbed, and filled, tilled, and/or plowed for conversion to agricultural fields. This work resulted in the discharge and redeposit of soil and/or other dredged or fill materials into wetlands. By this letter, EPA seeks information concerning your involvement in discharge activities that may have impacted wetlands at the Site, which encompasses your property *on both the north and south sides* of Coventry Station Road.

Under the provisions of the federal Clean Water Act (the "Act"), 33 U.S.C. § 1251 *et seq.*, the discharge of pollutants (in this case soil and/or other dredged and fill material) into waters of the United States, including most wetlands, is unlawful except as authorized by, among other things, a permit issued pursuant to Section 404 of the Act, 33 U.S.C § 1344. A federal permit is required under Section 404 of the Act for those activities which discharge dredged or fill material into the waters of the United States, including most wetlands. The Corps is responsible for accepting applications for and issuing or denying permits to perform such work, while EPA reviews and comments on permit applications received by the Corps. Both agencies share enforcement responsibilities under the Act, which provides administrative and judicial penalties for violations.

A review of the Corps' records shows that you did not obtain a federal permit authorizing the activities which occurred in wetlands and waterways at the Site. Since a federal permit was not issued for this work, you should not perform any additional work in wetland areas or other waters at the Site.

Section 308(a) of the Act, 33 U.S.C. § 1318(a), provides EPA with the authority to require the disclosure of information necessary to determine whether any person has violated any provision of the Act. Accordingly, you are hereby requested pursuant to Section 308(a) to furnish the

information identified below within 30 days of receipt of this letter. The questions refer to your property on *both the north and south* sides of Coventry Station Road.

- 1) Provide the name, address, and telephone number and position of all persons or entities having an ownership interest in the parcel of property encompassing the Site, a detailed description of each person or entity's ownership interest, the date on which each person or entity acquired an interest in the Site, and from whom each person or entity acquired that interest;
- 2) We understand that wetlands at the Site have been mapped or delineated. Please provide copies of all such mapping and/or delineations and any supporting documentation – including, but not limited to, mapping, delineation, and supporting documents prepared by consultants and/or federal and state agencies. If you are not in possession of such mapping, delineations, or supporting documentation, please indicate the names, addresses, and telephone numbers of the parties who you believe may be, have been, or are in possession of such documents. In addition, please provide copies of all written and electronic correspondence with consultants, state and federal agencies, or others regarding mapping and/or delineation of the wetlands at the Site and the supporting documentation;
- 3) Provide all reports, evaluations, and/or Site plans that relate to the Site, including soil reports, soil surveys, farm plans, engineering, construction, and survey reports prepared at any time. If you are not in possession of any of the reports listed above, please indicate the names, addresses, and telephone numbers of the parties who you believe may be, have been, or are in possession of such documents;
- 4) Please provide a precise description of all activities that occurred in wetlands at the Site, including but not limited to clearing, grubbing, stump removal, excavating, grading, tilling, plowing, and filling activities. Please also provide specific dates for each of these activities;
- 5) Please identify which of the activities described in response to Question 4 resulted in the placement or relocation of dredged or fill material. State the source of, type, and amount of dredged and/or fill material placed and identify the specific location of placement or relocation. In addition, please describe the amount and type of all manure, fertilizers, pesticides, soils, or other substances placed on the Site and identify the specific location of placement for all such manure, fertilizers, pesticides, soils, or other substances. Provide copies of all contracts, invoices or forms of proof of payment you have, or have had, with each vendor, contractor, and subcontractor related to the placement or relocation of dredged or fill material or other substances at the Site. State the acreage of wetlands directly impacted as a result of dredge or fill activities;
- 6) Provide a list of all consultants, contractors, and subcontractors (including their names, mailing addresses, and telephone numbers) who performed work at the Site since you acquired the property. Identify all persons (including their names, mailing addresses, and telephone numbers) who directed work at the Site, including work in wetlands;
- 7) Provide copies of all contracts, invoices, or forms of proof of payment you have, or have had, with the consultants, contractors, and subcontractors listed in Question #6 above. If no contracts or related paper work exist, describe your business arrangement with each consultant, contractor, and subcontractor relative to work at the Site;

- 8) Identify the types of equipment used to excavate or move soil material within the wetlands. State the names and addresses of the owners and operators of the equipment for all construction activities occurring at the Site;
- 9) Please describe how surface waters drain[ed] from the Site both before and after the work performed on the Site. State whether drainage tiles and/or pipes have been installed, ditches have been constructed, or any other measures have been taken to facilitate drainage. Provide copies of all contracts, invoices, or forms of proof of payment you have, or have had, with consultants, vendors, contractors, and subcontractors related to the installment of tiles and/or pipes, the construction of ditches, and/or any other measures taken to facilitate drainage.
- 10) Provide copies of all written and electronic correspondence, including but not limited to any permits or applications for permits, with any local, state, or federal government agency pertaining to the placement, retention, or removal of dredged and/or fill material into wetlands. In addition, provide all written and electronic correspondence pertaining to any other work occurring in wetlands at the Site;
- 11) If you have had any verbal communications with any local, state, or federal government agency, pertaining to the placement, retention, or removal of dredged and/or fill material, or to any other work occurring in the wetlands at the Site, please describe them, identifying all persons involved, the date of such communications, and the substance of the communications;
- 12) State your current and future plans for the Site;
- 13) Explain in detail why discharges of dredged and/or fill materials into wetlands occurred without the required Corps permit. Who was responsible for obtaining the Corps permit for the Site? If you believe that a Corps permit was not required, please state in detail the specific reasons for such belief;
- 14) Have you or anyone else with an ownership interest in the Site ever sought a Corps permit for past projects involving work in wetlands or waters? Please provide information indicating the name and location of the property, the date of the application or transaction, the type of activity, and a copy of the permit or any documents related to your communications with the Corps;
- 15) Provide copies of any documentation related to the work that occurred at the Site, including but not limited to:
  - a. reports or other documents provided to the Vermont Agency of Agriculture, Food and Markets ("AAFM");
  - b. reports or other documents provided to the U.S. Farm Services Agency ("FSA")
  - c. any maps, site plans, conservation plans, soil reports, engineering, construction or survey reports, wetlands delineations, recommendations, approvals, orders, citations, evaluations, assessments, documents, letters or other written or electronic communications prepared at any time for any lands that you now own or farm;
  - d. memos, notes or a description of verbal communications with NRCS, FSA or the Vermont AAFM (including the date that they occurred) pertaining to proposed or existing work at the Site.

- 16) Please include a map/plan prepared for or by the NRCS or the FSA- depicting all the most up to date field labels and designations for Farm #161, Tract 493.

You may assert a business confidentiality claim with respect to part or all of the information submitted to EPA in the manner described at 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent, and by the means of the procedures set forth in 40 C.F.R. 2, Subpart B. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to you. Please be aware that state laws governing confidential business information may differ from the federal regulations.

If you have a consultant, attorney, or other agent respond to this inquire on your behalf, please include a certification, stating that such agent has the authority to respond for you; or sign the return "Declaration" form provided. This certification must include your signature.

Please be aware that failure to respond to this information request may subject you to administrative and judicial enforcement action pursuant to Section 309 of the Act, 33 U.S.C. § 1319, including, among other things, imposition of administrative penalties up to \$177,500.

Please address your response, send by certified mail, to Mr. Roger Janson, Manager, Office of Environmental Stewardship, (Attn: Denise Leonard), U.S. EPA Region 1, Post Office Square, Suite 100, Mail Code OES05-1, Boston, Massachusetts 02109-3912. If you have any questions concerning the required information, please contact Denise Leonard of my staff at (617) 918-1719.

Sincerely,



Roger Janson, Manager – Technical Enforcement Office  
Office of Environmental Stewardship

Attachments: Attachment A  
Small business information sheet  
Business confidentiality information  
Declaration – Agent Certification

See attached for copies furnished

Copies Furnished:

Marty Abair  
U.S. Army Corps of Engineers  
Vermont Project Office  
8 Carmichael Street  
Suite 205  
Essex Junction, VT 05452

Alan Quackenbush  
VT DEC Water Quality Division – Wetlands Section  
103 South Main Street, - Bldg 10N  
Waterbury, VT 05671-0408

U.S. Fish and Wildlife Service  
Ryan Crehan

USDA - NRCS  
59 Waterfront Plaza, Suite 11  
Newport, VT 05855

U.S F&W Service  
70 Commercial Street,  
Concord, NH 03301-5087

Attny Laura Beveridge  
U.S. EPA, Region 1 – New England

